

SURFACE TRANSPORTATION BOARD
WASHINGTON, DC 20423

ENVIRONMENTAL ASSESSMENT

STB DOCKET NO. AB-6 (Sub-No. 438X)

**BNSF Railway Company – Abandonment Exemption –
in Morrison County, MN**

BACKGROUND

In this proceeding, BNSF Railway Company (BNSF) filed a notice of exemption under 49 CFR 1152.50 seeking exemption from the requirements of 49 U.S.C. 10903 in connection with the abandonment of an approximately .58-mile line of railroad in Morrison County, Minnesota. The rail line extends between BNSF milepost 113.44 and BNSF milepost 114.02 near Camp Ripley. A map depicting the rail line in relationship to the area served is appended to the Environmental Assessment (EA). If the notice becomes effective, the railroad will be able to salvage track, ties and other railroad appurtenances and dispose of the right-of-way.

ENVIRONMENTAL REVIEW

BNSF submitted an environmental report that concludes the quality of the human environment will not be affected significantly as a result of the abandonment or any post-abandonment activities, including salvage and disposition of the right-of-way. BNSF served the environmental report on a number of appropriate Federal, state, and local agencies as required by the Surface Transportation Board's (Board) environmental rules [49 CFR 1105.7(b)].¹ The Board's Section of Environmental Analysis (SEA) has reviewed and investigated the record in this proceeding.

Diversion of Traffic

According to BNSF, no local traffic has moved on the line for at least two years and no overhead traffic would need to be rerouted as a result of the abandonment. Accordingly, the proposed abandonment would not adversely impact the development, use and transportation of energy resources or recyclable commodities; transportation of

¹ The railroad's environmental and historic reports are available for viewing on the Board's website at www.stb.dot.gov by going to "E-Library," selecting "Filings," and then conducting a search for AB-6 (Sub-No. 438X).

ozone-depleting materials; or result in the diversion of rail traffic to truck traffic that could result in significant impacts to air quality or the local transportation network.

Salvage Activities

Impacts from salvage and disposal of a rail line typically include removal of tracks and ties, removal of ballast, dismantling of any bridges or other structures that may be present on the rail right-of-way, and regrading of the right-of-way. Salvage may be performed within the right-of-way, or, if necessary, via the construction of new access points to the right-of-way. As part of the proposed salvage activities, BNSF states that it intends to salvage rail, ties, and track material from the line. The proposed abandonment would also allow for the elimination of one public roadway crossing. BNSF states that it would take precautions during salvage operation to ensure public safety. Accordingly, we recommend that a condition be imposed requiring BNSF to conduct salvage activities in the manner it has proposed.

BNSF states that the line is located less than a mile north of Camp Ripley, a military installation operated by the Minnesota National Guard. The right-of-way is generally 150 feet in width, and there are no bridges or structures on the line.²

The National Geodetic Survey (NGS) identified one geodetic station marker that may be affected by the proposed abandonment and requested 90 days notification in advance of any activities that will disturb or destroy the marker in order to plan for its relocation. In a letter dated April 4, 2006, BNSF sent the requested notification to NGS. Because BNSF has documented its compliance with NGS' request, no condition is recommended at this time.

The U.S. Fish and Wildlife Service (USFWS) Division of Realty reviewed the proposed project and stated that it does not own any lands in the vicinity of the proposed abandonment, and it does not have any concerns regarding real estate matters. USFWS has not submitted comments regarding potential impacts to Federally listed threatened and endangered species. Accordingly, SEA is sending a copy of this EA to USFWS' Region 3 Office for its review and comment.

The Natural Resource Conservation Service (NRCS) stated that the proposed abandonment will not impact agricultural lands and a Federal Farmland Policy Protection Act site assessment is not required. However, NRCS noted that, if impacts to wetlands owned or operated by participants of the Wetlands Reserve Program are anticipated,

² BNSF believes that the right-of way may be suitable for alternative public use. In addition, Morrison County submitted comments stating that the proposed abandonment is consistent with local land use plans for a recreational trail and hopes that ownership will be transferred to the Morrison County Rail Authority. According to a comment letter from the Minnesota Department of Transportation (MDOT), MDOT has purchased this segment of rail corridor as part of an expansion project for an existing public highway, the Trunk Highway 371.

BNSF should contact the county Farm Service Agency office (FSA) to consider an application for a third party exemption.³ Accordingly, we recommend that a condition be imposed requiring BNSF to contact the Morrison County FSA office prior to commencement of any salvage activities regarding potential impacts to wetlands owned or operated by participants of the Wetlands Reserve Program and to comply with its reasonable requirements.

The U.S. Army Corps of Engineers' St. Paul District (Corps) submitted comments stating that no Corps permits would be required for the proposed project. In addition, the Minnesota Department of Natural Resources stated that the line is located outside of the 100-year floodplain.

The U.S. Environmental Protection Agency, Region 5 (USEPA), provided comments regarding the proposed abandonment. Pursuant to the Rebuttable Presumption Against Registration under the Federal Insecticide, Fungicide, and Rodenticide Act, USEPA stated that railroad ties treated with creosote should be buried in a non-hazardous waste landfill unless otherwise required by the State of Minnesota. USEPA also indicated that if rail steel, electrical and signal housings, bridge work, and other materials are to be removed from the proposed project site, recycling of these materials should be addressed and documented. To address the concerns raised by USEPA, we recommend that a condition be imposed requiring BNSF to contact USEPA prior to commencement of any salvage activities on this project regarding rail removal and salvage methods.

The MPCA reviewed the proposed project and recommended a number of mitigation measures. To avoid possible impacts to area streams, rivers and wetlands from erosion and stormwater runoff, MPCA recommended that BNSF: 1) mulch, seed, and/or sod during salvage activities to establish permanent ground cover and stabilize soils; 2) develop a site erosion plan to prevent sediment runoff; and 3) pursuant to the Clean Water Act, apply for a Section 402 National Pollutant Discharge Elimination System Permit (NPDES) if the proposed project would disturb one or more acres of land. Accordingly, we recommend that a condition be imposed requiring BNSF to contact the MPCA prior to commencement of any salvage activities on this project concerning erosion and stormwater runoff mitigation practices to be utilized during salvage activities. To ensure appropriate consideration of the NPDES requirements, we also recommend that a condition be imposed requiring BNSF to consult with MPCA prior to commencement of any salvage activities and to comply with the reasonable NPDES requirements.

MPCA also expressed concerns regarding salvage and disposal of the line and recommended that any removed railroad ties and other demolition debris be reused or disposed of in accordance with state rules for disposal of solid and hazardous waste.

³ NRCS administers the Wetlands Reserve Program, which is a voluntary program to restore and protect wetlands on private property. See Natural Resources Conservation Service, Wetlands Reserve Program at www.nrcs.usda.gov/PROGRAMS/wrp/ (last visited March 6, 2006).

Additionally, MPCA recommends an inspection and evaluation of any maintenance yards, switching areas or other such facilities in the project area for possible oil spills. BNSF states that its records do not indicate any hazardous waste sites or sites where there have been hazardous material spills on the right-of-way. However, in the event a release is discovered, MPCA stated that BNSF should comply with Minnesota Statute 115.061 and notify MPCA. Accordingly, we recommend that a condition be imposed requiring BNSF to consult with MPCA prior to commencement of any salvage activities regarding state regulations for disposal of salvaged materials, as well as any spills such as oil spills, and to comply with the reasonable requirements thereof. In the event a release is discovered, we recommend that BNSF immediately contact MPCA and SEA.

According to BNSF, the proposed abandonment will not affect wildlife sanctuaries or refuges, national or state parks or forests. The National Park Service's Midwest Region reviewed the proposed project and had no comments.

The Bureau of Land Management (BLM) stated that there are no Federal lands administered by BLM along the line. However, BLM noted that some original railroad grants were limited fee rights-of-way and may be subject to the Railroad Right-of-Way Forfeiture and Abandonment Act. See 43 U.S.C. 912.

Based on all information available to date, SEA does not believe that salvage activities would cause significant environmental impacts. SEA is providing a copy of this EA to the following agencies for review and comment: Minnesota National Guard; NGS; USFWS; Morrison County FSA; Corps; USEPA; MPCA; Morrison County; and MDOT.

HISTORIC REVIEW

BNSF submitted the historic report on the Minnesota Historical Society (the State Historic Preservation Office or SHPO), pursuant to 49 CFR 1105.8(c). The SHPO submitted comments stating that the line is eligible for inclusion in the National Register of Historic Places (National Register). Accordingly, we will recommend a condition requiring the railroad to retain its interest in and take no steps to alter the historic integrity of all sites, buildings, and structures within the project right-of-way that are eligible for listing or listed in the National Register of Historic Places until the Section 106 process has been completed.

SEA conducted a search of the Native American Consultation Database at www.cast.uark.edu/other/nps/nacd/ to identify Federally recognized tribes that may have ancestral connections to the project area. The database indicated that a number of tribes may have an interest in the proposed abandonment. These tribes include the: Bad River Band of the Lake Superior Tribe of Chippewa Indians of the Bad River Reservation, Wisconsin; Bois Forte Band (Nett Lake) of the Minnesota Chippewa Tribe, Minnesota; Fond du Lac Band of the Minnesota Chippewa Tribe, Minnesota; Grand Portage Band of the Minnesota Chippewa Tribe, Minnesota; Keweenaw Bay Indian Community, Michigan; Lac Courte Oreilles Band of Lake Superior Chippewa Indians of Wisconsin;

Lac Vieux Desert Band of Lake Superior Chippewa Indians, Michigan; Leech Lake Band of the Minnesota Chippewa Tribe, Minnesota; Mille Lacs Band of the Minnesota Chippewa Tribe, Minnesota; Minnesota Chippewa Tribe, Minnesota; Red Cliff Band of Lake Superior Chippewa Indians of Wisconsin; Sokaogon Chippewa Community, Wisconsin; St. Croix Chippewa Indians of Wisconsin; and White Earth Band of Minnesota Chippewa Tribe, Minnesota. Accordingly, SEA is sending a copy of this EA to these tribes for their review and comment.

CONDITIONS

SEA recommends that the following environmental conditions be placed on any decision granting abandonment authority:

1. As agreed to by BNSF Railway Company (BNSF), BNSF shall conduct salvage activities in the following manner: take precautions during salvage operations to ensure public safety.
2. BNSF Railway Company shall contact the Morrison County Farm Service Agency prior to commencement of any salvage activities regarding potential impacts to wetlands owned or operated by participants of the Wetlands Reserve Program and shall comply with its reasonable requirements.
3. Prior to commencement of any salvage activities, BNSF Railway Company shall consult with the U.S. Environmental Protection Agency's Region 5 regarding rail removal and salvage methods.
4. Prior to commencement of any salvage activities, BNSF Railway Company shall contact the Minnesota Pollution Control Agency concerning erosion and stormwater runoff mitigation practices to be utilized during salvage activities.
5. To ensure proper consideration of the National Pollutant Discharge Elimination System (NPDES) requirements, BNSF Railway Company shall contact the Minnesota Pollution Control Agency prior to commencement of any salvage activities and comply with the reasonable NPDES requirements.
6. BNSF Railway Company (BNSF) shall contact the Minnesota Pollution Control Agency (MPCA) prior to commencement of any salvage activities regarding state regulations for disposal of salvaged materials, as well as any spills such as oil spills, and comply with the reasonable requirements thereof. In the event an oil release is discovered, BNSF shall immediately contact MPCA and the Board's Section of Environmental Analysis.
7. BNSF Railway Company (BNSF) shall retain its interest in and take no steps to alter the historic integrity of all sites, buildings, and structures within the project right-of-way that are eligible for listing or listed in the National Register of Historic Places (generally, 50 years old or older) until the Section 106 process of

the National Historic Preservation Act, 16 U.S.C. 470f, has been completed. BNSF shall report back to the Section of Environmental Analysis regarding any consultations with Minnesota Historical Society (State Historic Preservation Office or SHPO) and any other Section 106 consulting parties. BNSF may not file its consummation notice or initiate any salvage activities related to abandonment until the Section 106 process has been completed and the Board has removed this condition.

CONCLUSIONS

Based on the information provided from all sources to date, SEA concludes that, as currently proposed, and if the recommended conditions are imposed, abandonment of the line will not significantly affect the quality of the human environment. Therefore, the environmental impact statement process is unnecessary.

Alternatives to the proposed abandonment would include denial (and therefore no change in operations), discontinuance of service without abandonment, and continued operation by another operator. In any of these cases, the existing quality of the human environment and energy consumption should not be affected.

PUBLIC USE

Following abandonment and salvage of the rail line, the right-of-way may be suitable for other public use. A request containing the requisite four-part showing for imposition of a public use condition (49 CFR 1152.28) must be filed with the Board and served on the railroad within the time specified in the Federal Register notice.

TRAILS USE

A request for a notice of interim trail use (NITU) is due to the Board, with a copy to the railroad, within 10 days of publication of the notice of exemption in the Federal Register. Nevertheless, the Board will accept late-filed requests as long as it retains jurisdiction to do so in a particular case. This request must comply with the Board's rules for use of rights-of-way as trails (49 CFR 1152.29).

PUBLIC ASSISTANCE

The Board's Office of Public Services (OPS) responds to questions regarding interim trail use, public use, and other reuse alternatives. You may contact OPS directly at (202) 565-1592, or mail inquiries to Surface Transportation Board, Office of Public Services, Washington, DC 20423.

COMMENTS

If you wish to file comments regarding this EA, send an **original and two copies** to Surface Transportation Board, Case Control Unit, Washington, DC 20423, to the

attention of Christa Dean who prepared this EA. Environmental comments may also be filed electronically on the Board's website, www.stb.dot.gov, by clicking on the "E-FILING" link. **Please refer to Docket No. AB-6 (Sub-No. 438X) in all correspondence, including e-filings, addressed to the Board.** If you have any questions regarding this EA, please contact Christa Dean the environmental contact for this case, by phone at (202) 565-1606, fax at (202) 565-9000, or e-mail at deanc@stb.dot.gov.

Date made available to the public: April 21, 2006.

Comment due date: May 8, 2006.

By the Board, Victoria Rutson, Chief, Section of Environmental Analysis.

Vernon A. Williams
Secretary

Attachment